IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPL;ICATION NO. 2852 OF 2005

IN

CRIMINAL APPEAL NO. 90 OF 2005

Shri Baburao Gorakh Ghadge ... Applicant

V/s

The State of Maharashtra ... Respondent

Shri Vikas Shivarkar for applicant

Coram : V.M. Kanade, J.

Dated : 03/05/2005.

P.C. :-

1 Heard the learned counsel for the applicant and the learned APP for the State.

2 The applicant is convicted for an offence punishable under section 304 Part-I of the Indian Penal Code and is sentenced to suffer R.I. for ten years.

3 The prosecution case is that the applicant had gone to the house of the deceased and asked her to prepare the food. On refusal to prepare the food, he got annoyed against her and he poured the kerosene on her. The

applicant

has relied on first dying declaration which was recorded by the police.In the first dying declaration, the deceased Rohini had stated that she had sustained burn injuries as a result of explosion of stove while she was preparing the food for the accused. In the second dying declaration, however she was stated that the accused poured the kerosene on her person and set on fire. Apart from this evidence, there is no other evidence to corroborate the versions of the deceased Rohini. The applicant is in Jail since more than 3 years and 8 months. There is some discrepancy in the manner in which second dying declaration has been recorded. In view of this, in my view, the applicant is entitled to release on bail in a sum of Rs.5000/- with one or two sureties in like amount.

(V.M.Kanade,J.)